



Financial Institutions; Iowa's Unclaimed Property Reporting Procedures

Financial Institutions offer a variety of products and services which require specific procedures for the handling and reporting of unclaimed property. Iowa state treasurer's office has developed this industry handbook as a tool to guide Financial Institutions in managing unclaimed property.

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Iowa Code Chapter 556, the Uniform Disposition of Unclaimed Property Act (the Act), was initially enacted in 1967. The Act covers unclaimed intangible personal property of all types, including insurance benefits, utility deposits, stocks and bonds, and bank accounts. The Act's coverage of *tangible* property is limited to safe deposit box contents where contact has been lost with the owner. Corresponding administrative rules have been adopted and updated from time to time to implement and clarify provisions of the Act.

Iowa Code Chapter 556 and Iowa Administrative Code Chapter 781-9 Unclaimed Property Provisions of Note to Financial Institutions

Code Section	Overview
556.1	Definitions
556.2	<ul style="list-style-type: none"> Principal provision related to banking and financial institutions. Checking accounts, savings accounts, certificates of deposit, and safe deposit box contents. Owner notification and customer contact.
556.2A	Traveler's Checks and Money Orders
556.2B	Checks, Drafts, and Similar Instruments Issued or Certified by Financial Institutions
556.5	Stocks and Other Intangible Interests in Business Associations
556.7	Property Held by Fiduciaries
556.9	Misc. Personal property held for another person, wages, and gift certificates
556.11	Report of Abandoned Property
556.13	Payment of Delivery of Abandoned Property
556.14	Relief from Liability by Payment of Delivery
556.25	Interest and Penalties
Iowa Administrative Code (IAC) Chapter 781-9 Unclaimed Property	
781-9.2	Forms
781-9.3	Definitions
781-9.4	Dormancy Fees and Related Charges
781-9.5	Reporting and Delivering of Safe Deposit Box Contents
781-9.6	Reporting of IRA's and other Retirement Accounts
781-9.7	Reporting of CD's and Other Timed Deposits
781-9.8	Indication of Interest by an owner in a CD or other Timed Deposit
781-9.10	Information Required to be included in a report
781-9.12	Owner Notification
781-9.13	Reporting Aggregate Amounts to the division

Terms and Phrases Pertinent to Financial Institutions:

Aggregate property means individual items of intangible property with a value of less than \$50 each or where the owner is unknown, which have been “aggregated” by a holder and reported and delivered to the state in a lump sum.

Dormancy fee means a dormancy charge, inactive account fee, minimum balance fee, maintenance fee, unclaimed property fee, or any other charge that result in the reduction of an account balance or property value, which is not directly related to a transaction initiated by an owner.

Dormancy period means the statutorily-specified span of time after which an owner’s failure to indicate an interest in property will result in the property being presumed abandoned and subject to reporting and delivery to the state.

Due diligence means the efforts required to be undertaken by a holder of unclaimed property to find the rightful owner of such property before the property is delivered to the state.

Inactive or dormant means when an account or instrument has gone without owner contact or activity for a period of time.

Positive Owner Contact means an action which is initiated by an owner constituting the owner’s aware of an asset, including:

- A deposit
- A withdrawal
- Correspondence from the owner in writing, including email
- Updating of contact information (address, phone, email) provided by the owner
- Some other indication of interest by the owner, as contemporaneously documented by the financial institution
- Positive contact or activity on a related account belonging to the same owner



Deposit Accounts

Each year, most, if not all financial institutions will be holding abandoned deposit (checking, share draft, savings, and similar) accounts. Abandoned accounts arise when the depositor has had no contact with the financial institution for three years. Generally speaking, "contact" is an action by a depositor which indicates that they are aware of the existence of the account and do not intend for their account to be presumed abandoned. Iowa Code Section 556.2(1) describes the specific types of depositor contact which would negate the presumption of account abandonment:

1. The depositor taking actions to increase or decrease the account balance (note: the automatic posting of interest or assessment of a dormancy fee does not constitute "contact" for unclaimed property purposes).
2. The presentation of a passbook for the crediting of interest.
3. Depositor communication with the financial institution (this can include written or electronic correspondence from the depositor, or a telephonic or other conversation with the financial institution provided that a simultaneous record is made concerning the date and specifics of the conversation).
4. Response to a due diligence letter from the financial institution.

In addition to these types of direct contact with a depositor Iowa Code Section 556.2(2) provides two other situations where a deposit account will not be deemed abandoned:

1. Where the depositor has another account with the financial institution, and during the preceding three years the depositor has been in contact with the financial institution with respect to the other account; or
2. Where the financial institution has sent mailings to the depositor during the preceding three years, and the mail has **not** been returned by the post office as undeliverable.

It is important to note that the "non-return of mail as contact" provision has several specific requirements. First, the financial institution must have actually made a statement mailing or mailing of other correspondence to the depositor. Second, the mailing or mailings must have been sent via first class mail. Third, the mailing envelope(s) must have included on its face a notation for address correction. Fourth, the financial institution must maintain a documented system for capturing and recording return mail.



When mailings made to a depositor are returned by the post office as undeliverable and the financial institution is unable to determine the current whereabouts of the depositor, the date of last contact (for "non-return of mail as contact" purposes) is the date of the last mailing that was successfully delivered to the depositor, and not the date of the initial item of return mail.

Time Deposit Accounts

Special rules apply to determining whether a time deposit (certificate of deposit or similar interest-bearing deposit with a defined maturity) are set forth in Iowa Code Section 556.2(3) and IAC 781-9.8. In short, there must have been contact with the depositor of the same nature as described in the Deposit Accounts section.

- If the time deposit does not renew, the abandonment period commences to run as of the date of maturity. If in the three years following maturity there is no owner contact, the deposit balance is reportable.
- If the time deposit automatically renews, the abandonment period begins to run at the conclusion of the last depositor-approved rollover period (if there is no contact with the owner).
- If, at the time of required reporting a time deposit it has not yet matured, the report period is extended until the time when no penalty or forfeiture would result.
- Additional requirements apply to IRAs in the form of time deposits; see the IRA section on page 6 of this guide.

Iowa Code Chapter 556 recognizes the "automatic" renewal of time deposits, but a notice of renewal must be sent to the depositor by the financial institution via first class mail; the envelope in which the notice of renewal is sent must include on its face a notation for address correction; and the financial institution must maintain a system for tracking and documenting return mail.

Inactivity fees, other service charges, and cessation of interest

Iowa Code Chapter 556 permits the imposition of inactivity fees and other service charges on unclaimed property. However, such charges must be "lawful."

- There must be an enforceable, written contract between a depositor and the financial institution. The contract must have clear terms allowing for inactivity or other charges, or ceasing of interest. The contract must clearly define what constitutes inactivity and when the charge will commence, or when interest will cease. If the contract is amended so as to create or modify inactivity charges, a notice must be sent to all accountholders to make them aware of the modification.



- The service charge policy may not be routinely waived, or imposed only against those accounts transferred to the state. If owners responding to due diligence notices (see the due diligence section of this guide) have previously imposed charges waived, the underlying fees do not represent a "lawful charge."
- Common financial institution practices that frequently result in a finding by the Iowa state treasurer's office that inactivity fees, other charges, or cessation of interest were not lawful:
 - a. Inactivity or dormancy was not clearly defined, or varied between the depositor agreement, fee schedule and actual written procedure;
 - b. Contract terms were not readily available or were concealed in an inconspicuous manner;
 - c. Inactivity fees or other charges were created through amendment of depositor agreement without sufficient notice provided to customers;
 - d. Inactivity fees or other charges are routinely waived upon request of the customer or "reactivation" of the account;
 - e. The financial institution routinely refunds the owner inactivity fees or other deducted charges after the owner is successfully located by the state.

Cashier's checks and other negotiable instruments

While Iowa Code Section 556.2B(2) permits the imposition of a service charge for the non-presentment of a negotiable instrument issued by a financial institution, there must be a valid, enforceable contract between the financial institution and the owner. Because in many instances the payee of the check (who is the apparent owner) does not have an account relationship with the financial institution, there is no contractual relationship between the payee and the financial institution and thus no basis for a "lawful charge." Even where the payee of the check is a customer of the financial institution, as a general matter there is frequently insufficient disclosure of a fee to support a "lawful charge" being assessed against funds represented by an unrepresented check.

Official Checks, Money Orders, and Travelers' Checks

Uncashed official checks, such as cashier's checks, money orders or certified checks, are presumed abandoned three years after they are issued or from the last positive owner contact. Unused travelers' checks are abandoned fifteen years from the issue date or last positive owner contact.

In the case of cashier's checks and money order, there are two possible parties entitled to the funds. The most obvious is the payee. However, the remitter that provided the money to the bank to fund and issue the cashier's check/money order may be entitled to payment. Whichever party is in possession of the actual instrument (the check) is the owner. For this reason, we ask that names (and as available) for both the remitter and payee be reported.

Some financial institutions offer negotiable instruments drawn on another institution. Teller's check should be reported as outlined above.

Outstanding certified checks are reportable on the same basis as other negotiable instruments on which a financial organization is directly liable.

Individual Retirement Arrangements (IRAs)

An IRA is reportable as unclaimed property if the owner fails to take a distribution as required by either the agreement governing the account or the Internal Revenue Code. While generally an IRA owner must take a distribution no later than the year following the owner turning age 70.5, other distribution rules may be applicable including, but not limited to, the death of the owner. The abandonment period is three years, and runs from the required beginning date of distributions.

A distribution check made from an IRA is reportable if it is not presented for payment by the owner within three years of the date of issue.

In reporting unclaimed IRAs, financial institutions are required to include, to the extent available, the name, address, and social security number of all beneficiaries.

Roth IRA

We recognize that, while the Roth IRA is not subject to the mandatory distribution rules during the original owner's lifetime, confusion may none the less exist among both the public and the holder community as to the treatment of this product with respect to the Act. For the purpose of consistency, our office will not penalize reporting organizations for treating the Roth IRA in the same manner as the traditional IRA and reporting them in the year the owner reaches the age of 70 ½.



Safe Deposit Box Contents

All tangible and intangible property held in a safe deposit box or other safekeeping arrangement (collectively, "SDB") is abandoned three years after the lease or rental period has expired. A detailed report of unclaimed SDB contents is to be filed annually by the November 1 reporting deadline; however, unlike other types of property, the SDB contents are **not** to be included with the filing. The state treasurer's office will notify you when to remit and arrange delivery of the contents.

- Unclaimed safe deposit box contents and other property held in safekeeping are to be reported by November 1.
- All contents must be reported as held.
- Unpaid rental fees, lock drilling, and other charges may not be offset against safekeeping items.
- A separate report must be filed for safekeeping items; do not commingle safekeeping items and intangible property.
- Electronic reporting of safekeeping is strongly encouraged. This will streamline the process and ensure data integrity.
- The more accurate and detailed the report, the more readily the contents can be inventoried and reconciled. To avoid discrepancies and questions, please identify all safekeeping in clear, concise manner. See examples below:
 - Like contents are not required to be individually categorized and can be grouped (16 silver colored forks, 12 gold colored bracelets, 5 1918 dimes).
 - Cash/Coin need to be separated out (12 wheat pennies, 5 buffalo nickels, 20 Mexican pesos, 40 nickels, 10-\$1.00 bills, 1 coin wrapper containing 50 US pennies 1918-1964)
 - Never assume the value of an item. Describe the item to ensure proper inventory comparison by the State Treasurer's Office (6 gold colored necklaces, 1 gold colored pocket watch, 1 gold colored ring with 5 clear stones, 1 pair screw back earrings with clear red stones).
 - Miscellaneous paperwork of no value can be lumped together (examples are receipts, letters, tax documents, car titles, empty envelopes etc).
 - The following paperwork should be listed out include: wills, insurance policies, birth certificates, and abstracts.
 - Securities should be described: American Company Certificate #ABC 600 shares registered to John Doe.
 - Savings bonds should be described: \$50 US Series E Savings Bond #Q6349724P for John Doe.

A special note concerning SDB drilling and content control procedures: some financial institutions remove SDB contents after the lease has expired but prior to the running of the three year abandonment period. SDB contents are typically placed in an envelope and held in the financial institution's vault. Should you financial institution follow this procedure, the state treasurer's office encourages you carefully catalog and control all such contents, so as to ensure that the date of the lease is correctly recorded, the contents are segregated by owner, and the owner name and other identifying information is maintained along with the SDB contents.



Miscellaneous Property Held by Financial Institutions

Personal Trust

Uncashed distribution checks to beneficiaries may be reportable, depending on the terms of the trust. Uncashed expense checks payable to third parties are reportable as unclaimed property. In both instances, the abandonment period is three years.

Corporate Trust

Some financial institutions act as trustee under indenture, paying agent, or liquidating agent. Unclaimed interest, unredeemed principal, and other abandoned distributions are subject to reporting and delivery under Iowa Code Chapter 556. Where the financial institution is performing these services in a fiduciary capacity, the financial institution is responsible for the reporting and delivery of the unclaimed funds (see Iowa Code Section 556.7 for further explanation).

Equity such as abandoned stock or dividends for corporations is often reported by trust departments (including stock and dividends issued by the financial institution's own holding company). Unclaimed dividends and undelivered stock certificates are abandoned after three years. Underlying shares are reportable when there has been no contact with the owner for a period of three years and at the conclusion of the three years the whereabouts of the owner cannot be ascertained, regardless of whether the issuer paid any dividends during the preceding three year period. Where there are unclaimed dividends associated with the underlying shares, all dividends to date must also be reported and remitted (see Iowa Code 556.5 for further explanation).

Debt in the form of unclaimed matured bonds, unredeemed bond coupons, or interest payments are considered abandoned three years from the date payable when held by a fiduciary or agent. If the fiduciary or agent plans to return the property to the issuer for reporting, they need to be aware that state and local governments report such items two years following the date payable. The bond trustee or paying agent has the option of reporting the unclaimed property or returning the items to the issuer. If you return the property to the issuer, please advise the issuer of the reporting requirements.



Gift Cards or Gift Certificates

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Certain unused balances on gift cards and gift certificates issued by financial institutions are reportable as unclaimed property.

The federal Credit Card Accountability and Responsibility and Disclosure Act of 2009 impacts gift cards (not gift certificates) issued subsequent to August 22, 2010. Gift card balances subject to reporting to the State of Iowa in 2013 relate to cards issued prior to the effective date of the CARD Act. The current abandonment period is three (3) years.

Beginning in 2014, the state treasurer's office extended the time in which issuers of gift cards are permitted to report and deliver unused gift card balances. The reporting period will be five years from the date of issue of the card. This two years extension of time is being made so as to avoid potential conflicts between Iowa Code Chapter 556 and the federal CARD Act.

July 1, 2014 and beyond gift cards for merchandise only that never expire, never acquire fees, and are always redeemable for goods will no longer be considered unclaimed property.

Gift Cards/Certificates and Unclaimed Property Abandonment Guidelines

Issued Prior to 8-22-2010	Issued After 8-22-2010	Issued July 1, 2014 and beyond
Reportable as unclaimed property after 3 years of inactivity	Reportable as unclaimed property after 5 years of inactivity	Open and Closed Loop Cards with expiration dates and/or fees: Reportable as unclaimed property after 5 years of inactivity Closed loop cards redeemable for merchandise only that never expire or incur fees: No longer required to be reported as unclaimed property
Per the Federal CARD Act enacted 8-22-2010: Fees cannot be assessed until 12 months after the instrument's activation and expiration dates need to be disclosed on the instrument.		



Financial Institution Business Operations

Aside from managing depositor funds and providing other financial services, financial institutions also issue or otherwise owe payment to third parties for goods and services. Examples of such payments include wages, vendor payables, tax payments, and other disbursements. Unclaimed payments for goods and services are reportable if unclaimed for three years (one year if wages). Note, certain unclaimed payments issued by a financial institution for goods and services may be subject to a business-to-business exemption under Iowa Code Chapter 556 (see Section 556.1 and I.A.C. 781--9.3).

Internal Control

Abandoned property poses embezzlement and fraud risks. Putting in place strong internal controls safeguards depositors' accounts and prevents possible theft or misappropriation of funds. It is advisable to keep dormant accounts under dual control and implement other types of security measures.

Examples of recommended internal controls for unclaimed property include:

- Requiring special authorization to view inactive accounts.
- Requiring dual authorizations for any transaction to an inactive account.
- Maintaining unclaimed property reports in a locked file with limited access.
- Separating reactivation/refund and reporting functions.
- Conducting periodic internal audits of inactive accounts and procedures.

Owner Notification ("Due Diligence")

Pursuant to Iowa Code Section 556.11(5), notification or "due diligence" letters must be sent to owners on a timely basis. The state treasurer's office considers the issuance of notices not more than 120 days or less than 60 days from the report due date of November 1 to represent timely due diligence.

Accordingly, notices should be mailed between July 1 and August 31.

Financial institutions are required to send a letter by first class mail to the last known address of the owner of any property having a value of \$50 or more (with respect to unclaimed safe deposit box contents, a notification letter is required regardless of the perceived value of the contents). Note, there is no requirement that a notice be mailed if the financial institution is aware that the address of record is inaccurate.

It is important that you allow appropriate time for owner to respond. The State Treasurer's Office recommends that notice letters be sent not more than 120 days, and not less than 60 days, prior to the November 1 report date.

Due diligence letters should contain:

- A description of the account or other property that has been abandoned.
- A statement that in the absence of the owner contacting the financial institution, the property will be transferred to the Office of the State Treasurer, which will hold it in perpetuity pending the property being claimed.
- A deadline for contact to prevent the property being transferred to the state.
Contact information for at the financial institution.



Sample Letter

Iowa Code Section 556.2 provides the wording for a sample due diligence notice and we've provided a draft below:

June 30, 20XX

Owner Name

Owner Address

Owner City, State, Zip

Dear Customer,

According to our records, we have had no contact with you regarding (insert type of property) for more than (number) years. Under Iowa law, if there is a period of (number) years without contact, we may be required to transfer these funds to the custody of the treasurer state of Iowa as unclaimed property. You may prevent this by taking some action, such as a deposit or withdrawal, which indicates your interest in this account, contacting the number listed below, or by signing this form and returning it to us.

Holder Information:

Company Name, Contact Person, Address, Phone Number, Email

If we do not hear from you before (insert the last date by which the company can remove items for refunds before reporting to the state), the law requires us to submit this obligation to the treasurer state of Iowa's office.

Sincerely,

ABC Inc.

I _____ wish to have my unclaimed property returned to me. Please send the funds to me at the above address (Please make corrections to the address if necessary) or as otherwise indicated.

- If the financial institution receives a due diligence letter back as undeliverable with no forwarding address, no further outreach efforts are required. *Take note of the returned mail and submit the last known address to the treasurer's office.*
- If mail is returned as undeliverable but with a forwarding address, it is up to you whether or not you mail another letter to that address. For all intents and purposes, the last known address is the last address in which you contacted the owner.
- For situations where the holder knows that the owner is deceased, we encourage holders, in the spirit of the unclaimed property law, to send the due diligence letters to the last known address. Typically an heir will receive the letter and can reconnect on behalf of the owner.

Certified mailing required for certain deposit accounts

As discussed in page 3 of this manual, a deposit account is deemed "active" if the financial institution has made a mailing to the depositor via first class mail, address correction requested during the preceding three years and the mailing has not been returned by the post office as undeliverable. If the financial institution has not made mailings of this type during the preceding three years or the financial institution does not maintain a system for documenting the return of undeliverable mail, pursuant to Iowa Code Section 556.2(5) the due diligence notification must be sent to the owner via **certified mail**. The actual mailing cost for the notice may be deducted from the account balance.



Note that the owner due diligence parameters described above represent the minimum mandatory requirements; financial institutions are encouraged to perform outreach to owners of all inactive assets. Additionally, the earlier that owners are notified, the more likely that the owner will be successfully contacted and reactivate their account or claim the property.

Failure to undertake owner notification

When the treasurer's office receives unclaimed property with a name and complete address, the first step taken is to mail a letter to the last known address (as required in Iowa Code 556.12). There should be limited instances in which the letters from the treasurer's office successfully reunite individuals with their property if the financial institutions sent out due diligence letters as instructed by law.

Iowa Code Section 556.11(5) provides that the state treasurer's office may impose a penalty on a financial institution or other holder that fails to perform due diligence.

*The treasurer of state may charge a holder that fails to timely exercise due diligence, as required in this subsection, **five dollars** for each name and address account reported if **thirty-five percent** or more of the accounts are claimed within the twenty-four months immediately following the filing of the holder report*

The state treasurer's office would prefer that a financial institution perform due diligence as required prior to turning over unclaimed property rather than impose this fee in instances in which people can still be reached at the address on file.

It is the goal of the state treasurer's office that financial institutions perform sufficient outreach to inactive account holders and other owners so that the property can be claimed directly from the institution holding the property, and not transferred to the state.

Timeline for Reporting





Penalties and Interest for Late Reporting

The treasurer is given the right to assess interest and penalties for late or negligent reporting in Iowa Code Section 556.25 as follows:

1. A person who fails to pay or deliver property within the time prescribed by this chapter shall pay the treasurer of state interest at the annual rate of ten percent on the property or value of the property from the date the property should have been paid or delivered but in no event prior to July 1, 1984.
2. A person who willfully fails to pay or deliver property to the treasurer of state as required under this chapter shall pay a civil penalty equal to twenty-five percent of the value of the property that should have been paid or delivered.
3. The interest or penalty or any part of the interest or penalty as imposed in subsection 1 or 2 may be waived or remitted by the treasurer of state if the person's failure to pay abandoned funds or deliver property is satisfactorily explained to the treasurer of state and if the failure has resulted from a mistake by the person in understanding or applying the law or the facts which require that person to pay abandoned funds or deliver property as provided in this chapter.

Our office works hard to ensure voluntary compliance rather than enforce the interest or penalties outlined in 556.25.

Voluntary Disclosure Agreement (VDA) Program

Our office currently has a VDA program that is intended for businesses and other organizations who have: never reported, with incomplete records, lapsed in reporting, complex unclaimed property liabilities or special issues complicating the calculation of the amount of unclaimed property owing will want to take advantage of the treasurer of state's voluntary disclosure program (VDA). Specific examples would include holders with missing, incomplete, or inaccurate records, as well as liabilities where there is a legitimate legal dispute as to the applicability of the unclaimed property law.

In order to be eligible for the VDA, a "VDA Application and Contract" must be completed and returned via email (upreport@iowa.gov) or fax (515-281-6962) to the treasurer of state prior to reporting. The holder will receive notification of the status of the request via email to the address listed on the application.